

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :9148 of 2006

DATED:29-03-2007

BETWEEN:

B.Swaroopu.

..... PETITIONER

AND

The Government of Andhra Pradesh,
Rep., by its Principal Secretary,
Home Department,
Secretariat,
Hyderabad & 2 others.

.....RESPONDENTS

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ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the 3rd respondent in not conducting any further investigation in connection with Cr.No.352/2005, dated 12-11-2005, which is relating to the petitioner's late husband-Survi Krishna who died on 11-11-2005 at R.K.Puram Railway Track which comes under the jurisdiction of the 3rd respondent police station even on receipt of the complaint, dated 22-11-2005, as illegal, and arbitrary, and consequently direct the respondents to register a case against one Baburao, Raju and other unknown persons forthwith.

3. Petitioner is the wife of one Survi Krishna. It is stated that the husband of the petitioner left the house on 11-11-2005 at about 10.00 a.m., and again came along with one Baburao, Raju, and some other unknown persons at 3.15 p.m., and gave Rs.1/- each to her children and has taken away Rs.100/- from her house and all the said persons went to a nearest wine shop, and purchased a liquor bottle, but he has not returned to the house. On the next day, a message was received

by the Deputy Superintendent of Police, Secunderabad that a dead body of one male person is lying on the track between MJF 'B' cabin railway gate at

K.M.No.04-05 and on the said message the 3rd respondent registered Cr.No.352 of 2005 for the offence punishable under Section 174 Cr.P.C. It is the case of the petitioner that the police have not made any proper investigation as to whether the death might have been caused due to homicide, and the petitioner had some suspicion against the said Baburao, Raju, and others.

4. Counter has been filed stating that investigation has been made keeping in view the said complaint of the petitioner and the said Baburao and Raju were also examined but nothing was elicited with regard to their committing the murder. The evidence gathered so far establishes that the petitioner's husband addicted to drinking along with the above said persons, and there is no evidence forthcoming about their involvement, but the postmortem report clearly goes to show that the cause of the death of the petitioner's husband is due to the head injury and therefore, the case was referred as 'suicidal death'.

5. Whether the death of the husband of the petitioner was a suicide or accident it is a different matter, but in view of there being no enmity, or *mens rea* to kill the husband of the petitioner by the alleged persons, I am of the opinion that it cannot be said that no proper investigation has been made. But however, if any evidence is forthcoming about their involvement it is always open for the petitioner to file a private complaint before the concerned

Magistrate to establish the guilt of the accused.

6. Accordingly, the Writ Petition is dismissed keeping it open to the petitioner to take appropriate legal steps in accordance with law. No order as to costs.

V.ESWARAIAH, J

29th March, 2007

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